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2 Defendants SOLDADO CORPORATION, GABRIEL GONZALEZ, JR., and BRIAN
3 J. ENGEL, and plaintiffs ALAN J. WATSON, CASH FLOW FINANCIAL, LLC,
4 GALVESTON MATRIX DIVERSIFIED TRUST, and DAVID F. KLIMA, hereby stipulate
5 and agree (in accordance with USDC-NDCA Local Rules 7-1(a)(2), 6-1(b), and 6-2, and
6 ADR Local Rule 6-5), and jointly request the Court (in accordance with USDC-NDCA Local
7 Rule 7-12), to modify two pre-trial deadlines: A) the closing date for completion of mediation
8 to accommodate a new mediation schedule tentatively adopted by the mediator and the par-
9 ties, which modification requires Court approval; and, B) the closing date for fact discovery to
10 accommodate the needs of defendant Gonzalez, who is confronting special circumstances
11 concerning location and production of documents. The moving and stipulating parties include
12 all parties who have lawfully appeared in this action. The grounds for this joint motion and
13 stipulation are as follows:
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- 15 1. On September 27, 2011, the ADR Clerk filed and served a notice appointing J. Daniel
16 Sharp as mediator. In accordance with ADR Local Rule, 6-4(b), the mediation
17 would have to be conducted by December 26, 2011; however, the Court earlier had
18 modified this deadline in its ORDER SCHEDULING TRIAL AND PRETRIAL MATTERS of
19 September 20, 2011(ECF DOC # 74 ¶ C), setting the deadline for completion of
20 mediation at December 15, 2011. The mediator has conducted several pre-
21 mediation telephone conferences, and the mediation was scheduled to occur De-
22 cember 6, 2011. However, the mediator encountered a scheduling conflict and, at a
23 telephone conference held by the mediator, it was determined by all parties present
24 that it would be best for the mediation to occur in January in order to accommodate
25 further document production by defendant Gonzalez (see ¶ 2 below). Therefore,
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1 subject to approval by the Court, the mediation was tentatively scheduled for Janu-
2 ary 19, 2011, with mediation briefs due January 12, 2011. All parties and the me-
3 diator endorse and support this schedule, and the parties therefore jointly request
4 the Court to extend the deadline for completion of the mediation until January 31,
5 2011, allowing a few additional days after the first scheduled session in the event
6 the mediation appears promising at its first session but would require a second ses-
7 sion to conclude. All parties move the Court for its order to this effect, and the me-
8 diator endorses it and has authorized the parties so to inform the Court.
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- 10 2. In its SCHEDULING ORDER referenced above (ECF DOC # 74 ¶ A), the Court, at the
11 request of the parties, set December 5, 2011 as the last day for completion of fact
12 discovery. Since that time, defendant Gonzalez has realized that he faces unusual
13 circumstances with respect to location and production of existing documents that
14 are relevant to this action. Gonzalez was a principal in Soldado Corporation, a con-
15 struction company, which also is a defendant here. Soldado Corporation has been
16 dissolved, and Gonzalez has filed a personal bankruptcy petition and been dis-
17 charged. Thereafter, documents concerning Soldado's construction projects, Gon-
18 zalez's personal bankruptcy, and the transactions that are at the subject matter of
19 this action all were physically moved into storage areas at Gonzalez's home and at
20 the homes of other family members. During this process, the documents were
21 mixed within and among storage boxes, so that all documents, of whatever kind,
22 apparently now are in no accessible order. In order for Gonzalez to produce the
23 documents that are at issue in this action, he therefore must go through all of the re-
24 cords – including all of Soldado's construction project records, his own personal
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1 bankruptcy records, as well as the records related to the transactions that are the
2 subject of this case (and several similar transactions involving the same or similar
3 parties). It has been impossible to do this quickly, and Gonzalez needs additional
4 time to complete it. The parties therefore jointly request that fact discovery remain
5 open until February 20, 2011 so that these documents can be located and enough
6 time will be available for follow-up discovery once they have been produced. All
7 parties have agreed to this proposed deadline.

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- 9 3. The moving and stipulating parties have requested no previous continuances or ad-
10 justments in the pre-trial or trial schedule since the current schedule was put in
11 place; earlier requested extensions under the first scheduling order were due to the
12 uncertain status of defendant Engel, whose motion to set aside the default against
13 him was pending and from whom no discovery then could be taken.
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- 15 4. The moving and stipulating parties do not anticipate that this extension of the dead-
16 lines sought in this joint motion and stipulation will impact other deadlines set in
17 the Court's currently-operative ORDER SCHEDULING TRIAL AND PRETRIAL MATTERS
18 of September 20, 2011, and therefore do not request that any other dates or dead-
19 lines established therein be changed at this time.
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21 WHEREFORE defendants Soldado Corporation, Gonzalez, and Engel and plaintiffs
22 Watson and CFF hereby stipulate and agree and request the Court to order that the deadline
23 for completion of mediation be moved to January 31, 2011 and that the date for closing of fact
24 discovery be set at February 20, 2011.

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1 DATE: December 2 , 2011

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3 s/ Brian W. Newcomb

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5 BRIAN W. NEWCOMB

6 Attorney for defendants Gabriel Gonzalez, Jr.
7 and Soldado Corporation

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9 DATE: December 2, 2011

10 LAW OFFICES OF EDWARD F. MITCHELL

11
12 s/ Edward F. Mitchell

13 By Edward F. Mitchell

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15 Attorneys for plaintiffs ALAN J. WATSON;
16 CASH FLOW FINANCIAL, LLC, a Michigan limited
17 liability company; GALVESTON MATRIX
18 DIVERSIFIED TRUST, an Ohio business trust;
19 and DAVID F. KLIMA, individually and in his
20 capacity as Trustee of Galveston Matrix
21 Diversified Trust

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DATE: December , 2011

s/ Brian J. Engel

BRIAN J. ENGEL

In pro per

ORDER

PURSUANT TO STIPULATION, it is so ORDERED. The deadline for completion of mediation shall be extended until January 31, 2012, and the date for closing of fact (non-expert) discovery shall be extended to February 20, 2012.

DATE: December 5 , 2011


HONORABLE JEFFREY S. WHITE
United States District Judge